

REMARKS

In the aforementioned claim amendments, claims 1, 10 and 17 are amended. Now pending in the application are claims 1-12, 14 and 17-18, of which claim 1 is independent. The following comments address all stated grounds for rejection and place the presently pending claims, as identified above, in condition for allowance.

Objections to Claims

Claims 1, 10 and 17 are objected to because of some informalities. In response to the objections, Applicants amend claims 1, 10 and 17 to cure the informalities as suggested by the Examiner in the Office Action. For example, Applicants amend claim 1 to change the occurrence of “a radiation therapy apparatus” in line 2 to “a radiation therapy device”. In light of the claim amendments, Applicants submit that claims 1, 10 and 17 are in condition for allowance.

Claim 18 is objected to because of its multiple dependency form. In response to the objection, Applicants submit that claim 18 depends upon claim 14 that subsequently depends upon claim 1. Claim 18 depends upon a base claim (claim 1) through an intervening claim (claim 14). Therefore, Applicants submit that claim 18 is in proper dependency form and request the withdrawal of the objection of claim 18.

Claim Rejections under 35 U.S.C. §103

Claims 1-12, 14 and 17 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,995,068 to Chou *et al.* (“Chou”) in view of U.S. Patent No. 5,138,647 to Nguyen *et al.* (“Nguyen”). Applicants respectfully traverse this rejection in light of the following reasons.

Claim 1 recites an apparatus for positioning an imaging device relative to a gantry of a radiation therapy device. The apparatus includes a mounting device for mounting

the apparatus on a surface of the gantry. The apparatus also includes *a telescopically extendable arm pivotally connected to the mounting device*. The apparatus further includes a holder for holding the imaging device, wherein the holder is connected to a distal portion of the telescopically extendable arm.

Applicants respectfully submit that there is no suggestion or motivation to combine or modify the teachings of Chou and Nguyen, and, even if combined, the cited references fail to teach or suggest all of the limitations of claim 1.

Chou discloses various embodiments of apparatus for positioning an imaging device. In particular, Fig. 1 illustrates an arrangement which is slidable on the gantry in rails, movement being in a radial direction. Figs. 2a and 2b depict a telescopically extendable arm which may be rigidly mounted on the gantry or slidably mounted in the guide rails. Chou shows in Figs. 3a and 3b an embodiment similar to Figs. 2a and 2b but which includes a mirror pivotally connected to the end of the telescopic arm. Fig. 4 is an alternative embodiment which rather than be telescopically collapsible is pivotally mounted so that it can be swung out of the way.

Applicants submit that there is no suggestion or motivation in Chou that the pivotal embodiment (Fig. 4) could be combined with the telescopic embodiments (Figs. 2a-3b). The two arrangements (pivotally mounted and telescopically extendable) are suggested as *alternative* arrangements for moving the imaging device toward and away from the patient. By disclosing these two embodiments as *alternatives* and not contemplating a possible need to introduce a pivotal connection *and* a telescopic connection in a single embodiment, Chou teaches away from such an embodiment.

Chou provides no motivation to combine a telescopically extendable arm with a pivotally mounted arm since *either* of these features independently adequately solves the technical problem addressed by Chou, i.e. to move the light box from under the table. Chou clearly indicates that the apparatus can be *either* telescopically retractable *or*

swingable towards and away from the table. Chou does not suggest that *a combination* of these two properties is possible or desirable.

Additionally, Applicants submit that Chou fails to suggest a concept of a holder from which an image device is detachable. In Chou, the imaging device (24) forms an integral part of the mounted arm. Therefore, there is no separate holding device for the image device in Chou. Chou does not teach or suggest an imaging device that is detachable from the apparatus.

The cited Nguyen reference discloses an apparatus for positioning an imaging device. The apparatus is described as “retractable and collapsible”. Nguyen shows in Fig. 1 a telescopically extendable holding portion which is fitted to a rear wall of the gantry inside a recess from which the holding portion telescopically extends. A holder from the imaging device is pivotally attached to the distal end of the telescopically extendable arm. However, there is no suggestion in Nguyen of a pivotal connection between the telescopically extendable arm and the mounting device. It is clear that even if one were to pivotally mount the telescopic arm of Nguyen to the gantry, any rotational motion of the arm would be strictly limited by the walls of the recess into which it is retractable.

Applicants submit that the combination of the features of Nguyen with an embodiment of Chou would not result in an apparatus as claimed in claim 1. There would be no motivation to introduce the hinged arrangement of Chou (Fig. 4) into the telescopic arrangement of Nguyen as Nguyen’s arrangement retracts completely into the gantry. If one were to introduce a hinge as in Chou, it would be pointless as (a) any pivotal motion is severely limited by the walls of the recess in the gantry, and (b) the retracted apparatus is already flush with the gantry so it cannot be swung any further out of the way.

In light of the aforementioned arguments, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 1-12, 14 and 17 under 35 U.S.C. § 103(a), and pass the claims to issuance.

CONCLUSION

For the foregoing reasons, Applicants contend that Claims 1-12, 14 and 17-18 are in condition for allowance. If there are any remaining issues, an opportunity for an interview is requested prior to the issuance of another Office Action. If the above amendments are not deemed to place this case in condition for allowance, the Examiner is urged to call Applicant's representative at the telephone number listed below.

Respectfully submitted,

LAHIVE & COCKFIELD, LLP



Anthony A. Laurentano
Registration No. 38,220
Attorney for Applicant

28 State Street
Boston, MA 02109
(617) 227-7400
(617) 742-4214

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